

Executive Summary – Enforcement Matter – Case No. 50830

City of Bay City

RN101920650

Docket No. 2015-1073-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Bay City WWTF, located approximately 4,000 feet east of State Highway 60 on the west side of Cottonwood Creek and approximately 9,200 feet south of State Highway 35, Bay City, Matagorda County

Type of Operation:

Wastewater treatment facility with an associated wastewater collection system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 20, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$5,625

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$5,625

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 50830
City of Bay City
RN101920650
Docket No. 2015-1073-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: May 8 through 13, 2015
Date(s) of NOE(s): July 10, 2015

Violation Information

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [TEX. WATER CODE § 26.121(c), 30 TEX. ADMIN. CODE § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System Permit No. WQ0010123004, Permit Conditions No. 2.g.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. By May 7, 2015, identified and ceased the unauthorized discharge; and
- b. By May 8, 2015, flushed and introduced microbiological enzymes into Cottonwood Creek, and repaired the manhole.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC 169, (817) 588-5886; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Mark Bricker, Mayor, City of Bay City, 1901 Fifth Street, Bay City, Texas 77414
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 13-Jul-2015 | Screening | 14-Jul-2015 | EPA Due | |
| | PCW | 25-Aug-2015 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|------------------|---------------------------|-------|
| Respondent | City of Bay City | | |
| Reg. Ent. Ref. No. | RN101920650 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Minor |

CASE INFORMATION

| | | | |
|--|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 50830 | No. of Violations | 1 |
| Docket No. | 2015-1073-MWD-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Cheryl Thompson |
| | | EC's Team | Enforcement Team 3 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$7,500 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

| | | | |
|---------------------------|------------------|--------------------------------|-----|
| Compliance History | 0.0% Enhancement | Subtotals 2, 3, & 7 | \$0 |
|---------------------------|------------------|--------------------------------|-----|

Notes: No adjustment for compliance history.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|----------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | -\$1,875 |
|--|-------------------|----------|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts: \$1
Estimated Cost of Compliance: \$3,250
*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$5,625 |
|-----------------------------|-----------------------|---------|

| | | | |
|---|------|-------------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$5,625

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$5,625 |
|-----------------------------------|-------------------------------|---------|

| | | | |
|-----------------|----------------|-------------------|-----|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|----------------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$5,625 |
|------------------------|---------|

Screening Date 14-Jul-2015

Docket No. 2015-1073-MWD-E

PCW

Respondent City of Bay City

Policy Revision 4 (April 2014)

Case ID No. 50830

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101920650

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 14-Jul-2015

Docket No. 2015-1073-MWD-E

PCW

Respondent City of Bay City

Policy Revision 4 (April 2014)

Case ID No. 50830

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101920650

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(c), 30 Tex. Admin. Code § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010123004, Permit Conditions No. 2.g.

Violation Description

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted from May 8 through May 13, 2015. Specifically, on May 5 through May 7, 2015, approximately 200,000 gallons of raw wastewater discharged from a manhole near the Cottonwood Lift Station into Cottonwood Creek, killing approximately 160 fish.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | x | | |
| Potential | | | |

Percent 30.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

3 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$7,500

One monthly event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

| | |
|---------------|---------------|
| Extraordinary | |
| Ordinary | x |
| N/A | (mark with x) |

Notes

The Respondent achieved compliance by May 8, 2015.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$5,625

This violation Final Assessed Penalty (adjusted for limits) \$5,625

Economic Benefit Worksheet

Respondent City of Bay City
Case ID No. 50830
Reg. Ent. Reference No. RN101920650
Media Water Quality
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|---------|------------|------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$3,250 | 5-May-2015 | 8-May-2015 | 0.01 | \$1 | n/a | \$1 |

Notes for DELAYED costs

Estimated cost to identify and cease the unauthorized discharge; flush and introduce microbiological enzymes into Cottonwood Creek; and repair the manhole. Date required is the initial date of noncompliance. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,250

TOTAL

\$1

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN600572770, RN101920650, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600572770, City of Bay City

Classification: SATISFACTORY

Rating: 0.31

Regulated Entity: RN101920650, City of Bay City

Classification: SATISFACTORY

Rating: 0.47

Complexity Points: 10

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: APPROXIMATELY 4,000 FEET EAST OF STATE HIGHWAY 60 ON THE WEST SIDE OF COTTONWOOD CREEK AND APPROXIMATELY 9,200 FEET SOUTH OF STATE HIGHWAY 35 IN BAY CITY, MATAGORDA COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

WASTEWATER PERMIT WQ0010123004

WASTEWATER EPA ID TX0034461

WASTEWATER LICENSING LICENSE WQ0010123004

Compliance History Period: September 01, 2009 to August 31, 2014

Rating Year: 2014

Rating Date: 09/01/2014

Date Compliance History Report Prepared: August 14, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 14, 2010 to August 14, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Greg Zychowski

Phone: (512) 239-3158

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

| | | | | | |
|---------|--------------------|-----------|---------|--------------------|-----------|
| Item 1 | September 07, 2010 | (1063146) | Item 24 | November 20, 2012 | (1063157) |
| Item 2 | September 16, 2010 | (1063149) | Item 25 | December 20, 2012 | (1063160) |
| Item 3 | October 18, 2010 | (1063152) | Item 26 | March 19, 2013 | (1080070) |
| Item 4 | November 12, 2010 | (1063155) | Item 27 | May 15, 2013 | (1107167) |
| Item 5 | December 15, 2010 | (1063158) | Item 28 | September 17, 2013 | (1125489) |
| Item 6 | February 10, 2011 | (1063129) | Item 29 | October 22, 2013 | (1135807) |
| Item 7 | March 09, 2011 | (1063132) | Item 30 | November 20, 2013 | (1141201) |
| Item 8 | March 10, 2011 | (1063135) | Item 31 | December 18, 2013 | (1147665) |
| Item 9 | May 13, 2011 | (1063138) | Item 32 | February 19, 2014 | (1161051) |
| Item 10 | June 14, 2011 | (1063141) | Item 33 | May 19, 2014 | (1174830) |
| Item 11 | August 29, 2011 | (1063147) | Item 34 | June 19, 2014 | (1187936) |
| Item 12 | October 13, 2011 | (1063150) | Item 35 | August 22, 2014 | (1199402) |
| Item 13 | November 03, 2011 | (952147) | Item 36 | September 19, 2014 | (1206321) |
| Item 14 | November 17, 2011 | (1063156) | Item 37 | October 03, 2014 | (1212731) |
| Item 15 | December 14, 2011 | (1063159) | Item 38 | November 18, 2014 | (1218986) |
| Item 16 | January 19, 2012 | (1063162) | Item 39 | December 17, 2014 | (1224769) |
| Item 17 | February 14, 2012 | (1063130) | Item 40 | January 20, 2015 | (1231464) |
| Item 18 | March 16, 2012 | (1063133) | Item 41 | February 23, 2015 | (1242791) |
| Item 19 | May 09, 2012 | (1063139) | Item 42 | March 18, 2015 | (1249144) |
| Item 20 | June 19, 2012 | (1063142) | Item 43 | May 19, 2015 | (1262746) |
| Item 21 | September 01, 2012 | (1063148) | Item 44 | June 19, 2015 | (1269912) |
| Item 22 | September 20, 2012 | (1063151) | | | |
| Item 23 | October 19, 2012 | (1063154) | | | |

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF BAY CITY
RN101920650**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-1073-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Bay City ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located approximately 4,000 feet east of State Highway 60 on the west side of Cottonwood Creek and approximately 9,200 feet south of State Highway 35 in Bay City, Matagorda County, Texas with an associated wastewater collection system (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted from May 8 through May 13, 2015, TCEQ staff documented that on May 5 through May 7, 2015, approximately 200,000 gallons of raw wastewater discharged from a manhole near the Cottonwood Lift Station into Cottonwood Creek, killing approximately 160 fish.
4. The Respondent received notice of the violations on or about July 15, 2015.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By May 7, 2015, identified and ceased the unauthorized discharge; and
 - b. By May 8, 2015, flushed and introduced microbiological enzymes into Cottonwood Creek, and repaired the manhole.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(c), 30 TEX. ADMIN. CODE § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010123004, Permit Conditions No. 2.g.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Five Thousand Six Hundred Twenty-Five Dollars (\$5,625) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Five Thousand Six Hundred Twenty-Five Dollar (\$5,625) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Five Thousand Six Hundred Twenty-Five Dollars (\$5,625) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Bay City, Docket No. 2015-1073-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

1/22/16
Date

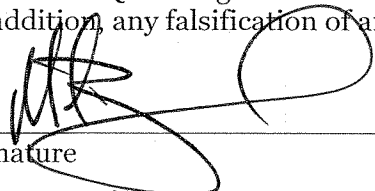
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Bay City. I am authorized to agree to the attached Agreed Order on behalf of the City of Bay City, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Bay City waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

10/8/15
Date

MARK A. BRICKER

Name (Printed or typed)

Authorized Representative of
City of Bay City

MAYOR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.